

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ALL STATE INSURANCE CO.,

Plaintiff,

- v -

RPM ENTERPRISES OF N.Y., et al.,

Defendants.

Order  
The recommendation  
of the U.S. Mag. is  
adopted

7/27/05

REPORT AND RECOMMENDATION

CV-03-4778 (ERK)(VVP)

It appears that the plaintiff has abandoned this action. The plaintiff has not pursued this case since an initial conference was held before Magistrate Judge Chrein in December 2003. At that time, the parties informed the court that the claims against the United States had been dismissed by the plaintiff, and that the plaintiff intended to seek a default judgment against the sole remaining defendant which had not answered or otherwise responded to the complaint. No motion for default judgment has been made, however. In addition, the plaintiff failed to respond to an order requesting a status report which was entered on May 13, 2005. Accordingly, the court

**RECOMMENDS** that this action be dismissed for want of prosecution. *See Link v.*

*Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962); *Hoffman v. Wisner Classic Mfg. Co.*, CV-95-1058 (ADS), 1996 WL 296938, \*3-4 (E.D.N.Y. June 1, 1996).

\* \* \* \* \*

Any objections to the Report and Recommendation above must be filed with the Clerk of the Court with a copy to the undersigned within 10 days of receipt of this report. Failure to file objections within the specified time waives the right to appeal

the District Court's order. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *IUE AFL-CIO Pension Fund v. Herrmann*, 9 F.3d 1049, 1054 (2d Cir. 1993); *Frank v. Johnson*, 968 F.2d 298 (2d Cir.), *cert. denied*, 113 S. Ct. 825 (1992); *Small v. Secretary of Health and Human Serv.*, 892 F.2d 15, 16 (2d Cir. 1989) (*per curiam*).

*Viktor V. Pohorelsky*  
VIKTOR V. POHORELSKY  
United States Magistrate Judge

Dated: Brooklyn, New York  
June 7, 2005